

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)
4)
5 MUR 7363) DISMISSAL AND
6 Unknown Respondent) CASE CLOSURE UNDER THE
7) ENFORCEMENT PRIORITY
8) SYSTEM
9)
10)

11 **GENERAL COUNSEL'S REPORT**

12
13 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a
14 basis to allocate its resources and decide which matters to pursue. These criteria include, without
15 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking
16 into account both the type of activity and the amount in violation; (2) the apparent impact the
17 alleged violation may have had on the electoral process; (3) the complexity of the legal issues
18 raised in the matter; and (4) recent trends in potential violations of the Federal Election
19 Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the
20 Commission's policy that pursuing relatively low-rated matters on the Enforcement docket
21 warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances.

22 The Office of General Counsel has scored MUR 7363 as a low-rated matter and has
23 determined that it should not be referred to the Alternative Dispute Resolution Office.¹ For the
24 reasons set forth below, we recommend that the Commission dismiss the allegation that an
25 unknown respondent violated 52 U.S.C. § 30124 or 11 C.F.R § 110.16.

¹ The EPS rating information is as follows:
further information, we are unable to identify and notify any respondent.

1 The Complaint alleges that an unknown respondent violated the Act by registering the
2 complainant's name as a domain address without his permission.²

3 The Act and Commission regulations prohibit federal candidates and their employees or
4 agents from fraudulently misrepresenting themselves or any committee or organization under
5 their control as speaking, writing, or otherwise acting on behalf of any other candidate or
6 political party or employee or agent thereof on a matter which is damaging to the other candidate
7 or political party or employee or agent.³ The Act and Commission regulations also prohibit any
8 person from fraudulently misrepresenting themselves as speaking, writing, or otherwise acting
9 on behalf of any candidate or political party or employee or agent thereof for the purpose of
10 soliciting contributions or donations.⁴

11 Construed broadly, the Complaint appears to allege that an unknown person has engaged,
12 or may engage, in fraudulent misrepresentation or solicitation. However, at this time, the domain
13 address is not active and there is no information to suggest that the domain owner is using the
14 domain to misrepresent himself as acting on behalf of the complainant or fraudulently soliciting
15 contributions or donations. Therefore, we recommend that the Commission dismiss the
16 allegation against the unknown respondent consistent with the Commission's prosecutorial
17 discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler*
18 *v. Chaney*, 470 U.S. 821, 831-32 (1985).

² Compl. at 1 (Apr. 11, 2018). The complainant, Michael Ryan, is a 2018 candidate for the U.S. House of Representatives in Texas's tenth congressional district. *Id.*; see also *The Libertarian Party of Texas, 2018 Candidates*, http://www.lptexas.org/2018_candidates (last visited Jun. 12, 2018). The domain address at issue is michaelryan2018.com. Compl. at 1. As of the date of this report, michaelryan2018.com could not be accessed.

³ 52 U.S.C. § 30124(a); 11 C.F.R. § 110.16(a).

⁴ 52 U.S.C. § 30124(b); 11 C.F.R. § 110.16(b).

RECOMMENDATIONS

1. Dismiss the allegation that an unknown respondent violated 52 U.S.C. § 30124 or 11 C.F.R § 110.16, pursuant to the Commission's prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985);
2. Approve the attached Factual and Legal Analysis and the appropriate letters; and
3. Close the file as to all respondents.

Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Associate General Counsel

6.15.18
Date

BY: Stephen Gura
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Attachment:
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

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2
3 RESPONDENTS: Unknown Respondent MUR 7363
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6 This matter was generated by a complaint alleging violations of the Federal Election
7 Campaign Act of 1971, as amended (“the Act”) and Commission regulations by an unknown
8 respondent. It was scored as a low-rated matter under the Enforcement Priority System, by
9 which the Commission uses formal scoring criteria as a basis to allocate its resources and decide
10 which matters to pursue.

11 The Complaint alleges that an unknown respondent violated the Act by registering the
12 complainant’s name as a domain address without his permission.¹

13 The Act and Commission regulations prohibit federal candidates and their employees or
14 agents from fraudulently misrepresenting themselves or any committee or organization under
15 their control as speaking, writing, or otherwise acting on behalf of any other candidate or
16 political party or employee or agent thereof on a matter which is damaging to the other candidate
17 or political party or employee or agent.² The Act and Commission regulations also prohibit any
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¹ Compl. at 1 (Apr. 11, 2018). The complainant, Michael Ryan, is a 2018 candidate for the U.S. House of Representatives in Texas’s tenth congressional district. *Id.*; see also The Libertarian Party of Texas, 2018 Candidates, http://www.lptexas.org/2018_candidates (last visited Jun. 12, 2018). The domain address at issue is michaelryan2018.com. Compl. at 1. As of the date of this report, michaelryan2018.com could not be accessed.

² 52 U.S.C. § 30124(a); 11 C.F.R § 110.16(a).

³ 52 U.S.C. § 30124(b); 11 C.F.R § 110.16(b).

1 Construed broadly, the Complaint appears to allege that an unknown person has engaged,
2 or may engage, in fraudulent misrepresentation or solicitation. However, at this time, the domain
3 address is not active and there is no information to suggest that the domain owner is using the
4 domain to misrepresent himself as acting on behalf of the complainant or fraudulently soliciting
5 contributions or donations.

6 In furtherance of the Commission's priorities relative to other matters pending on the
7 Enforcement docket and the fact that the domain address is not active, the Commission exercises
8 its prosecutorial discretion and dismisses the allegations as to the unknown respondent. *Heckler*
9 *v. Chaney*, 470 U.S. 821, 831-32 (1985).